

AMENDED IN ASSEMBLY MAY 8, 2006

AMENDED IN ASSEMBLY MAY 2, 2006

AMENDED IN ASSEMBLY APRIL 26, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 2867

Introduced by Assembly Member Torrico

February 24, 2006

An act to amend Section ~~66445~~ 65091 of the Government Code, relating to ~~subdivisions~~ *land use*.

LEGISLATIVE COUNSEL'S DIGEST

AB 2867, as amended, Torrico. ~~Subdivision Map Act. Land use:~~ *public hearings: notice.*

(1) The Planning and Zoning Law and the Subdivision Map Act require local governments to hold public hearings regarding various land use actions contemplated by those governments. If public notice of the hearing is required, that notice is required to be given in specified ways, among which is the delivery or mailing, within 10 days before the hearing, of the notice to the owner of the subject real property or the owner's duly authorized agent.

This bill will provide that, for purposes of the Planning and Zoning Law and the Subdivision Map Act notice requirements, an owner of real property includes both a person or entity that has given notice of intent to preserve a mineral right pertaining to the subject real property within the last 20 years and a current operator with operations on the subject real property as identified by the Division of Oil, Gas, and Geothermal Resources. By requiring local governments

to give notice to these additional owners and operators, the bill would impose a state-mandated local program.

(2) *The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

~~Existing law requires parcel maps to conform to specified conditions, including a statement signed and acknowledged by all parties having any record title interest in the real property being subdivided, consenting to the preparation and recordation of the parcel map. When the land is being divided into 4 or fewer parcels, where dedications or offers of dedication are not required, the statement shall be signed and acknowledged by the subdivider only. If the subdivider does not have a record title ownership interest in the property to be subdivided, the local agency may require the subdivider to provide the local agency with satisfactory evidence that the persons with record title ownership have consented to the proposed division.~~

~~This bill would require a statement, signed and acknowledged by the party having record title interest, to be considered satisfactory evidence.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 65091 of the Government Code is
- 2 amended to read:
- 3 65091. (a) When a provision of this title requires notice of a
- 4 public hearing to be given pursuant to this section, notice shall be
- 5 given in all of the following ways:
- 6 (1) Notice of the hearing shall be mailed or delivered at least
- 7 10 days prior to the hearing to the owner of the subject real
- 8 property or the owner's duly authorized agent, and to the project
- 9 applicant. *For purposes of this section, owners of real property*
- 10 *include, but are not limited to, both of the following:*

1 (A) *Persons and entities that have given notice of intent to*
2 *preserve a mineral right pertaining to the subject real property*
3 *within the last 20 years.*

4 (B) *A current operator with operations on the subject real*
5 *property as identified by the Division of Oil, Gas, and*
6 *Geothermal Resources.*

7 (2) Notice of the hearing shall be mailed or delivered at least
8 10 days prior to the hearing to each local agency expected to
9 provide water, sewage, streets, roads, schools, or other essential
10 facilities or services to the project, whose ability to provide those
11 facilities and services may be significantly affected.

12 (3) Notice of the hearing shall be mailed or delivered at least
13 10 days prior to the hearing to all owners of real property as
14 shown on the latest equalized assessment roll within 300 feet of
15 the real property that is the subject of the hearing. In lieu of
16 utilizing the assessment roll, the local agency may utilize records
17 of the county assessor or tax collector which contain more recent
18 information than the assessment roll. If the number of owners to
19 whom notice would be mailed or delivered pursuant to this
20 paragraph or paragraph (1) is greater than 1,000, a local agency,
21 in lieu of mailed or delivered notice, may provide notice by
22 placing a display advertisement of at least one-eighth page in at
23 least one newspaper of general circulation within the local
24 agency in which the proceeding is conducted at least 10 days
25 prior to the hearing.

26 (4) If the notice is mailed or delivered pursuant to paragraph
27 (3), the notice shall also either be:

28 (A) Published pursuant to Section 6061 in at least one
29 newspaper of general circulation within the local agency which is
30 conducting the proceeding at least 10 days prior to the hearing.

31 (B) Posted at least 10 days prior to the hearing in at least three
32 public places within the boundaries of the local agency, including
33 one public place in the area directly affected by the proceeding.

34 (b) The notice shall include the information specified in
35 Section 65094.

36 (c) In addition to the notice required by this section, a local
37 agency may give notice of the hearing in any other manner it
38 deems necessary or desirable.

39 (d) Whenever a hearing is held regarding a permit for a
40 drive-through facility, or modification of an existing

1 drive-through facility permit, the local agency shall incorporate,
2 where necessary, notice procedures to the blind, aged, and
3 disabled communities in order to facilitate their participation in
4 any hearing on, or appeal of the denial of, a drive-through facility
5 permit. The Legislature finds that access restrictions to
6 commercial establishments affecting the blind, aged, or disabled,
7 is a critical statewide problem; therefore, this subdivision shall be
8 applicable to charter cities.

9 *SEC. 2. If the Commission on State Mandates determines that*
10 *this act contains costs mandated by the state, reimbursement to*
11 *local agencies and school districts for those costs shall be made*
12 *pursuant to Part 7 (commencing with Section 17500) of Division*
13 *4 of Title 2 of the Government Code.*

14 ~~SECTION 1. Section 66445 of the Government Code is~~
15 ~~amended to read:~~

16 ~~66445. The parcel map shall be prepared by, or under the~~
17 ~~direction of, a registered civil engineer or licensed land surveyor,~~
18 ~~shall show the location of streets and property lines bounding the~~
19 ~~property, and shall conform to all of the following provisions:~~

20 ~~(a) It shall be legibly drawn, printed, or reproduced by a~~
21 ~~process guaranteeing a permanent record in black on tracing~~
22 ~~cloth or polyester base film. Certificates or statements, affidavits,~~
23 ~~and acknowledgments may be legibly stamped or printed upon~~
24 ~~the map with opaque ink. If ink is used on polyester base film,~~
25 ~~the ink surface shall be coated with a suitable substance to assure~~
26 ~~permanent legibility.~~

27 ~~(b) The size of each sheet shall be 18 by 26 inches or 460 by~~
28 ~~660 millimeters. A marginal line shall be drawn completely~~
29 ~~around each sheet, leaving an entirely blank margin of one inch~~
30 ~~or 0.25 millimeters. The scale of the map shall be large enough to~~
31 ~~show all details clearly and enough sheets shall be used to~~
32 ~~accomplish this end. The particular number of the sheet and the~~
33 ~~total number of sheets comprising the map shall be stated on each~~
34 ~~of the sheets, and its relation to each adjoining sheet shall be~~
35 ~~clearly shown.~~

36 ~~(c) Each parcel shall be numbered or lettered and each block~~
37 ~~may be numbered or lettered. Each street shall be named or~~
38 ~~otherwise designated. The subdivision number shall be shown~~
39 ~~together with the description of the real property being~~
40 ~~subdivided.~~

1 ~~(d) (1) The exterior boundary of the land included within the~~
2 ~~subdivision shall be indicated by distinctive symbols and clearly~~
3 ~~so designated.~~

4 ~~(2) The map shall show the location of each parcel and its~~
5 ~~relation to surrounding surveys. If the map includes a~~
6 ~~“designated remainder” parcel or similar parcel, and the gross~~
7 ~~area of the “designated remainder” parcel or similar parcel is five~~
8 ~~acres or more, that remainder parcel need not be shown on the~~
9 ~~map and its location need not be indicated as a matter of survey;~~
10 ~~but only by deed reference to the existing boundaries of the~~
11 ~~remainder parcel.~~

12 ~~(3) A parcel designated as “not a part” shall be deemed to be a~~
13 ~~“designated remainder” for purposes of this section.~~

14 ~~(e) Subject to the provisions of Section 66436, a statement,~~
15 ~~signed and acknowledged by all parties having any record title~~
16 ~~interest in the real property subdivided, consenting to the~~
17 ~~preparation and recordation of the parcel map is required, except~~
18 ~~that less inclusive requirements may be provided by local~~
19 ~~ordinance.~~

20 ~~With respect to a division of land into four or fewer parcels,~~
21 ~~where dedications or offers of dedications are not required, the~~
22 ~~statement shall be signed and acknowledged by the subdivider~~
23 ~~only. If the subdivider does not have a record title ownership~~
24 ~~interest in the property to be divided, the local agency may~~
25 ~~require that the subdivider provide the local agency with~~
26 ~~satisfactory evidence that the persons with record title ownership~~
27 ~~have consented to the proposed division. A statement, signed and~~
28 ~~acknowledged by the party having record title interest shall be~~
29 ~~considered satisfactory evidence. For purposes of this paragraph,~~
30 ~~“record title ownership” means fee title of record unless a~~
31 ~~leasehold interest is to be divided, in which case “record title~~
32 ~~ownership” means ownership of record of the leasehold interest.~~
33 ~~Record title ownership does not include ownership of mineral~~
34 ~~rights or other subsurface interests that have been severed from~~
35 ~~ownership of the surface.~~

36 ~~(f) Notwithstanding any other provision of this article, local~~
37 ~~agencies may require that those statements and acknowledgments~~
38 ~~required pursuant to subdivision (e) be made by separate~~
39 ~~instrument to be recorded concurrently with the parcel map being~~
40 ~~filed for record.~~

1 ~~(g) On and after January 1, 1987, no additional survey and~~
2 ~~map requirements shall be included on a parcel map that do not~~
3 ~~affect record title interests. However, the map shall contain a~~
4 ~~notation of reference to survey and map information required by~~
5 ~~a local ordinance adopted pursuant to Section 66434.2.~~

6 ~~(h) Whenever a certificate or acknowledgment is made by~~
7 ~~separate instrument, there shall appear on the parcel map a~~
8 ~~reference to the separately recorded document. This reference~~
9 ~~shall be completed by the county recorder pursuant to Section~~
10 ~~66468.1.~~

11 ~~(i) If a field survey was performed, the parcel map shall~~
12 ~~contain a statement by the engineer or surveyor responsible for~~
13 ~~the preparation of the map that states that all monuments are of~~
14 ~~the character and occupy the positions indicated, or that they will~~
15 ~~be set in those positions on or before a specified date, and that~~
16 ~~the monuments are, or will be, sufficient to enable the survey to~~
17 ~~be retraced.~~

18 ~~(j) Any public streets or public easements to be left in effect~~
19 ~~after the subdivision shall be adequately delineated on the map.~~
20 ~~The filing of the parcel map shall constitute abandonment of all~~
21 ~~public streets and public easements not shown on the map,~~
22 ~~provided that a written notation of each abandonment is listed by~~
23 ~~reference to the recording data or other official record creating~~
24 ~~these public streets or public easements and certified to on the~~
25 ~~map by the clerk of the legislative body or the designee of the~~
26 ~~legislative body approving the map. Before a public easement~~
27 ~~vested in another public entity may be abandoned pursuant to this~~
28 ~~section, that public entity shall receive notice of the proposed~~
29 ~~abandonment. No public easement vested in another public entity~~
30 ~~shall be abandoned pursuant to this section if that public entity~~
31 ~~objects to the proposed abandonment.~~